IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2619 of 2005

Between:

1 Mohd. Yousuf, S/o Late Raj Mohammed,
2 Mohd. Shareef, S/o Late Raj Mohammed,
Both are R/o Nanakaramguda, Serilingampally Mandal, Ranga Reddy District.

..... PETITIONERS

AND

1. The Deputy Collector Cum Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District.
2 . The District Collector, Ranga Reddy District, Lakdi-ka-pool, Hyderabad.
3 . The Andhra Pradesh Industrial Infrastructure Corporation Ltd, (APIIC Ltd), Basheerbagh, Hyderabad, rep. by its Managing Director.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in interfering with the land of the petitioners in Sy.No. 115/32 to an extent of Ac. 4.13 gts situated at Nanakaramguda village, Serilingampally Mandal, Ranga Reddy District, is highly arbitrary, bad and illegal and pass such other order or orders as deem fit and proper.

Counsel for the Petitioner : MR. C.H.SIDDAIAH

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2619 OF 2005

ORDER:

The petitioners claim to be in possession and enjoyment of land to an extent of Ac.4-13 guntas situated in Sy.No.115/32 of Nanakramguda village, Serilingampally Mandal, R.R. District. It is stated that the said land was Jagir land and their father late Raj Mohammad was put in possession in 1950 and after his death the petitioners have been continuing in possession and enjoyment. It is also claimed that in the year 1977-78 the Government of A.P. assigned the said land in favour of their father and after his death the land was divided among them in equal share of 2.6½ guntas each and they have been cultivating the same. It is alleged that the 1st respondent issued notices dated 17-4-2002 calling upon the petitioners to deliver the possession of the land within a week from the date of receipt of the said notice alleging that the same is required for public purpose by the Andhra Pradesh Industrial Infrastructure Corporation Limited (A.P.I.I.C.) and therefore it is decided to resume the assigned lands on payment of ex gratia in terms of G.O.Ms.No.1307, Revenue (Assignment) Department, dated 23-12-1993. On receipt of the said notice,

the petitioners filed a representation requesting the respondents to withdraw the action proposed under the impugned notice since the said land has been in their continuous possession and enjoyment since 1940. However, the 1st respondent passed an order dated 5-9-2002 stating that in terms of the Government Instructions the exgratia at the rate of Rs.2 lakhs per acre has been fixed by the District Collector by proceedings dated 4-9-2002. Accordingly, the Additional Revenue Inspector, Serilingampally was directed to take over the possession of the land in question at once pending payment of ex gratia amount to the assignees and to hand over the possession to the authorities of A.P.I.I.C. and to report compliance. Aggrieved by the same, this writ petition is filed contending inter alia that the action of the respondents in seeking to dispossess the petitioners without taking any steps under the provisions of the Land Acquisition Act, 1894 is arbitrary and illegal. It is also contended that the purpose for which the land is proposed to be acquired is not a public purpose and therefore the action of the respondents in depriving the petitioners of their lawful possession and enjoyment of the land in question is arbitrary, illegal and unjustified. Hence, this writ petition seeking a declaration that the action of the respondents is arbitrary and illegal.

On behalf of the third respondent Corporation, a counter-affidavit has been filed stating that the land in question was resumed on 14-9-2002 itself and was handed over to the third respondent Corporation. It is also stated that the petitioners earlier filed W.P.No.18915 of 2002 questioning the very same orders dated 17-4-2002 and 5-9-2002 in which though initially interim stay of dispossession was granted, subsequently having noticed the fact that the land was already resumed by the Revenue Authorities on 14-9-2002, the interim order was vacated. It is also stated that though the respondents have paid the ex gratia of Rs.2 lakhs per acre, the petitioners refused to receive the same and therefore the same was deposited in the Bank. The said ex gratia at Rs.2 lakhs per acre was fixed as per G.O.Ms.No.1307, dated 23-12-1993. Subsequently, a batch of writ petitions namely W.P.No.11759 of 2002 and batch, in which an identical question was raised, was disposed of by this Court by order dated 20-09-2004 directing the Government of A.P. to pay the compensation to all the petitioners therein equivalent to full market value of the land and other benefits on par with the owners of the land. Following the said order, W.P.No.18915 of 2002 filed by the petitioners was disposed of by order dated 27-12-

2004 with similar directions. It is further stated that the land in question along with other lands in Nanakramguda village, Serilingampally Mandal was allotted in favour of M/s.Kanbay Software (I) Private Limited, Pune for development of I.T. Campus and the possession of the land was delivered to the Company on 27-12-2004 in pursuance of the agreement dated 9-12-2004 entered into with the said Company by the Government of A.P. and the said Company has commenced the development of work on the said land. All the averments of the petitioners that they have been continuing in possession have been categorically denied and it is stated that the writ petition is misconceived and liable to be dismissed in limine.

I have heard the learned Counsel for the petitioners, learned Government Pleader for the Land Acquisition appearing for the respondent 1 and 2 as well as Sri E.Madanmohan Rao, the learned Counsel appearing for the third respondent Corporation and perused the material on record.

On a perusal of the order dated 27-12-2004 in W.P.No.18915 of 2002, it is clear that the order of resumption passed by the 1st respondent dated 5-9-2002 was questioned in the said writ petition and it was recorded by this Court in the order dated 13-09-2004 that the possession of the land in question was already taken from the petitioners even before the writ petition was filed. Thus, apparently, the plea of the petitioners that they have been continuing in possession is false. Even their claim for payment of compensation was already considered by this Court while disposing of the earlier writ petition i.e., W.P.No.18915 of 2002. This Court while following the principles laid down in the larger Bench Judgment of this Court in LAO-cum-RDO, CHEVELLA DIVISION, DOMALAGUDA, HYDERABAD v. M.PANDU disposed of the said writ petition directing the respondents to take appropriate action for payment of market value to the petitioners. Thus, as a matter of fact, there does not appear to be any cause of action for filing this writ petition and the learned Counsel for the respondents vehemently contend that the writ petition is misconceived and liable to be dismissed in limine.

However, the learned Counsel for the petitioners across the Bar submits that the petitioners have not been paid the market value as directed by this Court and therefore it would be appropriate to direct the respondents to pay the compensation

forthwith.

On the other hand, the learned Standing Counsel appearing for the third respondent Corporation states that against the order in W.P.No.11759 of 2002 and batch, the Corporation has carried the matter to the Supreme Court and by order dated 5-1-2005 the Supreme Court granted interim stay as regards determination and payment of further compensation. It is stated that similar orders were granted in the Appeals filed against the judgment of the Larger Bench in Mekala Pandu's case (1 supra) and the issue is now pending before the Supreme Court. The learned Counsel also states that even against the order in W.P.No.18915 of 2002 filed by the petitioners, the Corporation preferred a Special Leave Petition and the same is likely to be heard shortly. Since the question whether the assignees are entitled to full market value of the land or they are entitled only for ex gratia is now the subject matter of appeals pending before the Supreme Court and the determination and further payment of compensation is stayed by the Supreme Court. Hence, there cannot be any Mandamus to the respondents to pay the market value to the petitioners in terms of the order in the earlier writ petition.

That apart, since the petitioners are not in possession as on today, as rightly contended by the learned Counsel for the respondents, the Writ Petition itself is misconceived and the prayer of the petitioners to protect their alleged possession does not deserve any consideration.

However, since the petitioners have not been paid even the ex gratia, I deem it appropriate to direct the respondents to pay the ex gratia to which the petitioners are entitled to forthwith. The learned Counsel for the 3rd respondent Corporation states that as a matter of fact the ex gratia amount at the rate of Rs.2 lakhs per acre is in deposit with the Bank.

Accordingly, the Writ Petition is disposed of with a direction to the respondents 1 and 2 to pay the ex gratia, which is in deposit with the Bank, to the petitioners within two weeks from the date of receipt of this order. It is made clear

that such payment shall be subject to further orders that may be passed by the Supreme Court in the Appeals pending against the order in W.P.No.18915 of 2002.

The Writ Petition is accordingly disposed of. No costs.

Needless to mention that the interim order of Status Quo granted earlier shall stand vacated.

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1st April, 2005.

gbs

To

1. The Deputy Collector Cum Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District.
2 . The District Collector, Ranga Reddy District, Lakdi-ka-pool, Hyderabad.
3 . The Managing Director, Andhra Pradesh Industrial Infrastructure Corporation Ltd, (APIIC Ltd), Basheerbagh, Hyderabad.

4. Two CCs to G.P. for Revenue, High Court of AP Bldgs, Hyderabad (OUT).

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